

(2000) 12 PAT CK 0016
In the Patna High Court
Case No : C.W.J.C. No. 4598 of 1999

Devendra Kumar Arya and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-12-2000

Acts Referred:

Citation : (2000) 12 PAT CK 0016

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kumar Singh, J

Bench : Division Bench

Advocate : Rajendra Prasad and Ritesh Kumar, for the Appellant; S. Alamdar Hussain and Shashi Bhushan Kumar for the State, for the Respondent

Judgement

1. The submissions on behalf of the State by the State counsel have also been made on of the Government of Bihar in an affidavit affirmed by the Secretary, Rural Development Department. The present issue has been brought by several petitioners as a Public Interest Litigation who are otherwise residents of several villages, which used a road between Hilsa and Paravimore via Bansbigaha. It is contended that this is a vital road for the people of the villages and without this road they are virtually land-locked. The length of the road which lies in disrepair is about 18 kilometers of which 6 kilometers is the subject matter of assurance by the State respondents that it will be completed and in so far as the rest is concerned, there is an uncertainty whether it would see the finalisation of the project. In the totality of circumstances, the road is on paper only.

2. The explanation given to the Court as in the counter affidavit is very dismal. The Court has been indicated that if anything is to progress on this sector there is no likelihood of its being done within the present financial year. The construction as is intended is for 6 kilometers only. The rest will be taken up for consideration in the next financial year.

3. It is acknowledged at the Bar on behalf of the State that the road was abandoned from being completed in 1992. This aspect is mentioned in paragraph

4. If funds were spent for this road, it was between 1986-1992. Thereafter, the funds were not made available. It is acknowledged that the construction of the road had to stop midway during the year 1992-93. Since the road was not completed, the rest is consequential that it will be subjected to ravages of climate. Implying thereby that any investment which was made on the road which was abandoned is now virtually a waste. This is an amount of Rs. 13,50,589/-. The plan was abandoned.

4. It may not be misunderstood that the High Court has given any direction to the State of Bihar to complete this road. The High Court only thought it fit to bring the present Public Interest Litigation to the notice of the State respondents. There must be several roads in the State of Bihar which perhaps are lying abandoned in the same circumstances.

5. The affidavit of the State submits that during the current financial year no State funds are available to Rural Engineering Organisation for construction of the rural roads. The question is where has the money gone? Were the plans made? Was the budget made to pursue a plan? Was an allocation sought? The people cannot be given an answer that for the last 8 years the rural roads have not received attention because money is not available. This is a very amateur way of explaining, the situation. State planning is an intricate process of making a budget on a plan and seeking allocation of funds and then executing a project.

6. The High Court is not running the day to day administration of the State. But, a rural road is part of local self Government. It is acknowledged that in 1986 funds were made available to the District Collector. Ordinarily these funds would go to the Panchayat In respect of the area local to the people, the people are entitled to know of the public plan funds meant for them. The people are also entitled to know what public funds are available for public planning which affects them. This is public information.

7. The affidavit of the State also mentions that Planning and Development Department has been entrusted with finalization of planning and the plan lay out and that the Rural Development Department is not in a position to release funds for the construction of the aforesaid road during the current financial year. Both are departments of the State and departments of the government are not legal entities under the Constitution; the government is. Nothing has been explained to the Court whether the Rural Department had adopted this very road as part of the plan after the project was abandoned.

8. In the circumstances, the Court considers it appropriate that since the State respondents appear to come up with ready answers to explain every situation including the circumstance that there is no money, summed-up the situation stands thus : (a) nothing can be done during the current financial year as there are no funds and (b) the project may be considered in the next financial year.

9. This means the residents of these villages may hope that if any construction is to take place it will happen only in the next financial year and that there is no

certainty on how much will be allocated to renew the project so as to complete this 18 kilometers of village road.

10. The Court considers it appropriate that the State Government should place before the Court in context of the Rural Development Department, Bihar, the details of the budget allocation, the plan outlay, the funds made available and the expenditure incurred including such of those funds which may have been lapsed unutilised or any other reason. To begin with, the figures of the last ten years be placed before the Court.

11. Put up on 11 January, 2001. A copy of this order may be given to learned State counsel aforesaid within 24 hours.